

OFFICE OF THE CITY MANAGER
DES MOINES, IOWA

93
ITEM 34

CITY COUNCIL COMMUNICATION 97-135
MARCH 17, 1997 AGENDA

SUBJECT:	TYPE:	SUBMITTED BY:
IMPLEMENTATION PLAN FOR NOISE COMPATIBILITY PLAN, PHASE 2	◆ RESOLUTION ORDINANCE RECEIVE/FILE	WILLIAM FLANNERY AVIATION DIRECTOR

SYNOPSIS —

The Legal Department has recently evaluated the right-of-way acquisition process, including the Airport Noise Compatibility Program, Phase 2. During evaluation of this program and initial startup of the easement acquisition processes, it has been discovered that a number of inconsistencies exist in the acquisition process which vary slightly from the approved implementation procedures manual. These minor inconsistencies should be formally corrected by Council action to amend the Resale Assurance and Easement Acquisition Program implementation manual for of the approved Noise Compatibility Program. The Easement Acquisition Agreement and Resale Acquisition Agreement forms are recommended to be amended as shown in Amended Exhibits J & M attached to the roll call, which delete the City Clerk's certification of Council approval paragraph therefrom, since only the actual easements need to be approved by the City Council and the Noise and Avigation Easement form is recommended to be amended for the Resale Assurance Program only to include the additional SECTION X, as shown is Amended Exhibit A(RA) in order to allow acceptance of the easement by the City Council prior to the buyer's closing, and thus, providing that the easement will be in a superior position to the buyer's mortgage, while providing for the buyer's consent as originally intended through the Consent to Easement.

FISCAL IMPACT —

These changes will not affect the funding for this project. The Professional Service Agreement and the Easement Acquisition Program are provided for on page 24 (fund code 317065) of the approved 1996-97/2001-02 Capital Improvements Program. The FAA grants will provide 90 percent of the funds for the Phase II Noise Compatibility Program. Airport Enterprise funds will provide the necessary 10 percent local matching of project expenses.

RECOMMENDATION —

Adopt the minor changes to the manual of implementation procedures for Phase II of the approved Noise Compatibility Program.

Direct the City Engineer to submit the implementation manual changes to the FAA for final approval.

BACKGROUND —

On May 4, 1992, by Roll Call No. 92-1617, the City Council approved the content of a revised amendment to the approved Airport Noise Compatibility Plan that provided for, as part of a voluntary program, the acquisition of approximately 704 noise and avigation easements on property located between the 70 and 75 Ldn Noise Contours as shown on the 1994 Unabated Noise Contour Maps for

the Des Moines International Airport. Subsequently, the City Council authorized the Mayor to execute three separate FAA Grants totaling \$5,860,800 to fund the acquisition of the noise and aviation easements. Changes in FAA regulations and procedures which occurred after the execution of the Grant Agreements delayed the implementation of the easement acquisition project. On February 27, 1995, by Roll Call No. 95-794, the City Council authorized the City Manager to proceed with the selection of qualified firms to provide the professional services for a Nominal Value Finding Study and to develop implementation procedures. On August 21, 1995, by Roll Call No. 95-3256, the City Council approved the professional services agreement between the City of Des Moines and W.D. Shock Company, Inc. and directed the Airport Board to execute the agreement. On September 5, 1995, by Resolution No. A95-204, the Airport Board approved a professional services contract with W.D. Shock Company, Inc. in an amount not to exceed \$193,397.12 to develop a Nominal Value finding for a noise and aviation easement and to further develop the implementation steps for the Noise Compatibility Program, Phase II. On February 5, 1996, a joint informational meeting with the Airport Board and the City Council was held to explain the justification for the proposed \$2,000 nominal value finding for the noise and aviation easement.

On June 14, 1996, by Roll Call No. 96-2327, the City Council approved the implementation manual for the Resale Assurance and Easement Acquisition Program of the approved Noise Compatibility Program which details the required steps for obtaining noise and aviation easements through purchase or resale assurance payments. The major components of this program are: a) eligibility to approximately 764 residential properties which lie within the previously-approved 70 Ldn noise contours if the homeowners lived at these properties prior to July 1, 1996 and signed up for this voluntary program prior to December 31, 1996; b) a priority system based on points, which is consistent with the approved noise compatibility program giving priority to those who have lived in the area longest and giving priority to hardship cases as defined in the manual; c) includes a form of noise and aviation easement which includes a Non-suit Clause that has been valued at \$500 of the \$2,000 total nominal easement valuation; d) includes a Resale Assurance option for those owner/occupants that want to move out of the area which provides a \$2,000 Real Estate Commission Assistance Fee and differential payments if the property doesn't sell within the marketing period and is approved for listing below the appraised fair market value; e) includes a \$2,000 purchase option for those owner/occupants that want to continue living in the area. This Real Estate Market Study Easement Valuation and Implementation Procedures Manual received final approval from FAA on July 16, 1996. It is anticipated to take about three years to complete the acquisition of the 617 noise and aviation easements from those homeowners who have filled out initial participation questionnaires for the Resale Assurance or Purchase options of the program.